

# SENATE BILL No. 202

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.5-3-3; IC 36-4-1.

**Synopsis:** Changing a town to a city; utility service boards. Eliminates the requirement for filing a petition by registered voters before adoption of an ordinance establishing a utility service board. Eliminates the requirement for filing a petition by registered voters before adoption of an ordinance changing a town into a city. (The introduced version of this bill was prepared by the interim study committee on state government issues.)

**Effective:** July 1, 1999.

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## Merritt

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January 6, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE BILL No. 202

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1.5-3-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The legislative  
3 body of a municipality may, by ordinance, provide for the control of  
4 any or all of its municipally owned utilities by:

5 (1) the municipal works board;

6 (2) a board consisting of the members of the municipal legislative  
7 body;

8 (3) a utility service board established under subsection ~~(e)~~ or  
9 established before January 1, 1983, under IC 8-1-2-100  
10 ~~(repealed)~~; **(b)**; or

11 (4) the board of directors of a department of waterworks  
12 established under IC 8-1.5-4.

13 (b) The registered voters of a municipality may file a petition  
14 addressed to the legislative body requesting that the question of the  
15 creation of a utility service board be submitted to a referendum. The  
16 petition must be signed by at least the number of the registered voters  
17 of the municipality required under IC 3-8-6-3 to place a candidate on



the ballot.

(c) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

(d) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of \_\_\_\_\_ adopt an ordinance providing for the appointment of a utility service board to operate \_\_\_\_\_ (Insert name of utility here)?"

(e) If a majority of the voters voting on the question vote for the creation of a utility service board, The legislative body shall, **may**, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must provide for:

(1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;

(2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will be staggered;

(3) the salaries, if any, to be paid to the members; and

(4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

(f) The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections (b) through (d).

SECTION 2. IC 36-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. **If The legislative body of a town that** has a population of more than two thousand (2,000) it may change **the town** into a city in the following manner:

(1) The town legislative body may adopt a resolution submitting to the town's voters the question of whether the town should change into a city. The legislative body shall adopt such a resolution if at least the number of the registered voters of the town required under IC 3-8-6-3 to place a candidate on the ballot



petition it to do so. The legislative body shall file a copy of the resolution with the clerk of the circuit court for each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(2) The resolution must fix a date for an election on the question. If the election is to be a special election, the date must be not less than thirty (30) nor more than sixty (60) days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) Notice of the election must be given by the clerk of the circuit court in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(4) The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of \_\_\_\_\_ change into a city?"

(5) If a majority of those voting on the question vote "yes", the town changes into a city when its officers are elected and qualified; otherwise the town remains a town.

by adopting an ordinance. However, the town legislative body may not adopt such an ordinance during any year in which a municipal election is scheduled to be conducted under IC 3-10-6-5.

SECTION 3. IC 36-4-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) If an election ordinance is adopted under section 4 of this chapter is held on the same date as a general election of town officers, the ballot must contain a list of candidates for the elective offices of a city: to change a town into a city, the town legislative body shall file a copy of the ordinance with the clerk of the circuit court for each county in which the town is located. The circuit court clerk shall immediately certify the ordinance to the county election board. Candidates for the initial election of city officers shall be selected at the next municipal primary election scheduled under IC 3-10-6-2 and the initial election of city officers shall be conducted at the next municipal election scheduled under IC 3-10-6-5.

(b) If the town changes into a city, the Candidates elected under subsection (a) take office as officers of the city on January 1 following their election.

(c) If the town remains a town, the candidate elected as clerk or clerk-treasurer takes office as town clerk-treasurer, and the candidates elected as members of the legislative body who:

(1) reside in the districts in which vacancies exist on the town



- 1 legislative body; and
- 2 (2) received the highest number of votes;
- 3 take office as members of the town legislative body.

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